

EXHIBIT 39

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3
4 BETHESDA SOFTWARES, LLC,)
5 Plaintiff,)
6 v.)
7 INTERPLAY ENTERTAINMENT) No. DKC 09-2357
8 CORPORATION,)
9 Defendant.)
10 _____)

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15 Videotaped Deposition of INTERPLAY
16 ENTERTAINMENT CORP., THROUGH ITS PERSON MOST
17 KNOWLEDGEABLE, HERVE CAEN, taken in the above-entitled
18 matter before Lindsay Pinkham, Certified Shorthand
19 Reporter No. 3716, Certified Realtime Reporter within
20 and for the State of California, taken at the offices of
21 Steptoe & Johnson LLP, 2121 Avenue of the Stars, 28th
22 Floor, Los Angeles, California 90067, on Friday, October
23 8, 2010, commencing at 9:16 A.M.
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<p>1 A Since the beginning of the development of the</p> <p>2 game.</p> <p>3 Q Well, isn't that the same time the wiki was</p> <p>4 created?</p> <p>5 A After the wiki was created.</p> <p>6 Q Okay. So I'm trying to -- give me some dates</p> <p>7 here of when the other electronic game was created.</p> <p>8 A Late '08, beginning of '09.</p> <p>9 Q Okay. And is there a means of accessing that</p> <p>10 other electronic medium?</p> <p>11 A Accessing?</p> <p>12 Q Is it web based?</p> <p>13 A I don't think so.</p> <p>14 Q Is it a separate server from the wiki?</p> <p>15 A I don't know that it's a server.</p> <p>16 Q Who would be the best person -- who would</p> <p>17 know -- strike that.</p> <p>18 Who at Interplay would be most knowledgeable</p> <p>19 about this other electronic medium?</p> <p>20 A I can find out for you.</p> <p>21 Q Okay. What steps, if any, has Interplay taken</p> <p>22 to locate a copy of Fallout MMOG as it existed on</p> <p>23 April 4, 2009?</p> <p>24 A I think we have it.</p> <p>25 Q You have a copy of the game as it existed on</p>	<p>1 given Mr. Caen's testimony that a copy of the game as it</p> <p>2 existed on April 4, '09, is available, we just renew our</p> <p>3 request for that.</p> <p>4 MR. BRENNAN: Fine.</p> <p>5 MR. ALLAN: And with that, I am done.</p> <p>6 MR. BRENNAN: Very well. Do you have a</p> <p>7 stipulation that we've used previously for the witness?</p> <p>8 MR. ALLAN: I don't believe so. So I think</p> <p>9 we'll just go under the federal rules. I assume this</p> <p>10 witness will read and sign.</p> <p>11 MR. BRENNAN: Very well. Thank you.</p> <p>12 MR. ALLAN: Thank you.</p> <p>13 THE VIDEOGRAPHER: Off the record at 12:30.</p> <p>14 (At 12:30 p.m. the deposition of</p> <p>15 INTERPLAY ENTERTAINMENT CORP., THROUGH</p> <p>16 ITS PERSON MOST KNOWLEDGEABLE, HERVE</p> <p>17 CAEN, was concluded.)</p> <p>18 -o0o-</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 April 4, 2009?</p> <p>2 A I think so.</p> <p>3 Q And how can that be produced -- well, I request</p> <p>4 a copy of it. I request a copy of the game as it</p> <p>5 existed on April 4, 2009.</p> <p>6 MR. BRENNAN: As with the other requests, with</p> <p>7 respect to the game MMOG, I think, my recollection is</p> <p>8 there's been some discussion or negotiation between the</p> <p>9 parties that's unresolved in granting access. And you</p> <p>10 and I haven't had those discussions, but our offices</p> <p>11 will continue to communicate on that.</p> <p>12 I believe the sticking point was the breadth of</p> <p>13 the protective order. But I just want to be clear that</p> <p>14 it has been offered previously.</p> <p>15 MR. ALLAN: Right. And just to clarify it,</p> <p>16 there has been some discussion in the past, and that was</p> <p>17 before the Court actually entered the protective order</p> <p>18 that has now actually been entered as an order of the</p> <p>19 Court. And there is no attorneys'-eyes-only designation</p> <p>20 under the protective order.</p> <p>21 So this seems to be a very, obviously, critical</p> <p>22 piece of information that we need to be able to review,</p> <p>23 we need to be able to review with our client. And we</p> <p>24 need to do it in the near term.</p> <p>25 So we'll continue to have that discussion, but</p>	<p>1 CERTIFICATE OF DEPONENT</p> <p>2 I hereby certify that I have read and examined the</p> <p>3 foregoing transcript, and the same is a true and</p> <p>4 accurate record of the testimony given by me.</p> <p>5 Any additions or corrections that I feel are</p> <p>6 necessary, I will attach on a separate sheet of</p> <p>7 paper to the original transcript.</p> <p>8</p> <p>9</p> <p>10</p> <p>11 _____</p> <p>12 Signature of Deponent</p> <p>13</p> <p>14 I hereby certify that the individual representing</p> <p>15 himself/herself to be the above-named individual,</p> <p>16 appeared before me this ____ day of _____</p> <p>17 2010, and executed the above certificate in my</p> <p>18 presence.</p> <p>19</p> <p>20</p> <p>21 _____</p> <p>22 NOTARY PUBLIC IN AND FOR</p> <p>23</p> <p>24 _____</p> <p>25 County Name</p> <p>MY COMMISSION EXPIRES:</p>